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6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
13 Against:

Case No. 2004-98

14 **LYNN GAIL BOYCE**
15 **a.k.a. LYNN GAIL BOYCE IVERSON**
16 313 Black Oak Drive
Petaluma, CA 94952

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17 Registered Nurse License No. 279441
18 Public Health Nurse License No. 33188

19 Respondent.

20 **FINDINGS OF FACT**

21 1. On or about November 9, 2007, Complainant Ruth Ann Terry, M.P.H.,
22 R.N, in her official capacity as the Executive Officer of the Board of Registered Nursing, filed
23 Petition to Revoke Probation No. 2004-98 against Lynn Gail Boyce, a.k.a. Lynn Gail Boyce
24 Iverson (Respondent) before the Board of Registered Nursing, Department of Consumer Affairs.

25 2. On or about January 1, 1977, the Board of Registered Nursing (Board)
26 issued Registered Nurse License No. 279441 to Respondent. The Registered Nurse License
27 expired on November 30, 2006, and has not been renewed.

28 3. On or about October 16, 1982, the Board issued Public Health Nurse
Certification No. 33188 to Respondent. The Public Health Nurse Certification expired on
November 30, 2006, and has not been renewed.

1 4. On or about November 14, 2007, Staci Caston, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke
3 Probation No. 2004-98, Statement to Respondent, Notice of Defense, Request for Discovery, and
4 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
5 with the Board, which was and is 313 Black Oak Drive, Petaluma, CA 94952. A copy of the
6 Petition to Revoke Probation, the related documents, and Declaration of Service are attached as
7 Exhibit A, and are incorporated herein by reference.

8 5. Service of the Petition to Revoke Probation was effective as a matter of
9 law under the provisions of Government Code section 11505, subdivision (c).

10 6. Government Code section 11506 states, in pertinent part:

11 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
13 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
14 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon her of the Petition to Revoke Probation, and therefore waived her right to a hearing on the
17 merits of Petition to Revoke Probation No. 2004-98.

18 8. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or upon
21 other evidence and affidavits may be used as evidence without any notice to respondent."

22 9. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 Exhibits A, finds that the allegations in Petition to Revoke Probation No. 2004-98 are true.

26 10. The total costs for investigation and enforcement are \$4800.00 as of
27 November 30, 2007.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Lynn Gail Boyce-Iverson has subjected her Registered Nurse License No. 279441 and Public Health Nurse Certification No. 33188 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Registered Nurse License and Public Health Nurse Certification based upon the following violations alleged in the Petition to Revoke Probation:

a. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 1 (Failed to Obey all Laws).

b. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 5 (Failed to Submit Written Reports).

c. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 6 (Failed to Function as a Registered Nurse).

d. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 7 (Failed to Comply with Employment Approval and Reporting Requirements).

e. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 10 (Failed to Complete Nursing Course).

f. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 11 (Failed to Pay Cost Recovery).

g. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 15 (Failed to Participate in Treatment/Rehabilitation Program for Chemical Dependency).

h. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 17 (Failed to Submit to Test and Samples).

i. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 18 (Failed to Undergo Mental Health Examination).

j. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 19 (Failed to Complete Therapy).

k. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 2 (Failed to Fully Comply with Probation Program).

ORDER

IT IS SO ORDERED that Registered Nurse License No. 279441 and Public Health Nurse Certification heretofore issued to Respondent Lynn Gail Boyce-Iverson are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on APRIL 3, 2008.

It is so ORDERED MARCH 4, 2008

LaTranene N Tate
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Petition to Revoke Probation No. 2004-98, Related Documents, and Declaration of Service

Exhibit A

Petition to Revoke Probation No. 2004-98,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of Petition to Revoke Probation
Against:

Case No. 2004-98

13 **LYNN GAIL BOYCE,**
14 **a.k.a. LYNN GAIL BOYCE IVERSON**
313 Black Oak Drive
15 Petaluma, CA 94952

**PETITION TO REVOKE
PROBATION**

16 Registered Nurse License No. 279441
Public Health Nurse Certification No. 33188

17 Respondent.
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20 Complainant alleges:

21 **PARTIES**

- 22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
23 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
24 Registered Nursing, Department of Consumer Affairs.
- 25 2. On or about January 1, 1977, the Board of Registered Nursing (Board)
26 issued Registered Nurse License No. 279441 to Lynn Gail Boyce, a.k.a. Lynn Gail Boyce Iverson
27 (Respondent). The license expired on November 30, 2006.

28 / / /

1 3. On or about October 16, 1982, the Board issued Public Health Nurse
2 Certification No. 33188 to Lynn Gail Boyce, a.k.a. Lynn Gail Boyce Iverson (Respondent). The
3 Certification expired on November 30, 2006.

4 **PRIOR DISCIPLINE**

5 4. In a disciplinary action entitled "In the Matter of Accusation Against Lynn
6 Gail Boyce," Case No. 2004-98, the Board issued decisions, effective August 20, 2004, in which
7 Respondent's Registered Nurse License and Public Health Nurse Certification were revoked.
8 However, the revocations were stayed and Respondent's license and certification were placed on
9 probation for a period of three (3) years, with certain terms and conditions. A copy of the
10 decisions are attached as Exhibit A and are incorporated by reference. On or about June 25,
11 2007, the Board requested that the Attorney General's Office prepare a Petition to Revoke
12 Probation against Respondent. As such, pursuant to Condition No. 12 of the Decision and Order,
13 Respondent's probationary period shall automatically be extended and shall not expire until the
14 petition has been acted upon by the Board.

15 **FIRST CAUSE TO REVOKE PROBATION**

16 **(Obey all Laws)**

17 5. At all times after the effective date of Respondent's probation, Probation
18 Condition No. 1 stated:

19 **Obey All Laws.** Respondent shall obey all federal, state and local laws.
20 A full and detailed account of any and all violations of law shall be
21 reported by Respondent to the Board in writing within seventy-two (72)
22 hours of occurrence. To permit monitoring of compliance with this
condition, Respondent shall submit completed fingerprint forms and
fingerprint fees within 45 days of the effective date of the decision,
unless previously submitted as part of the licensure application process.

23 6. Respondent's probation is subject to revocation because she failed to
24 comply with Probation Condition No. 1, referenced above, in that she failed to ever provide
25 proof of fingerprinting.

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1 minimum of 24 hours per week for 6 consecutive months or, in the alternative, to request an
2 extension in order to meet this requirement.

3 **FOURTH CAUSE TO REVOKE PROBATION**

4 **(Employment Approval and Reporting Requirements)**

5 11. At all times after the effective date of Respondent's probation, Probation
6 Condition No. 7 stated:

7 **Employment Approval and Reporting Requirements.** Respondent shall
8 obtain prior approval from the Board before commencing or continuing
9 any employment, paid or voluntary, as a registered nurse. Respondent
10 shall cause to be submitted to the Board all performance evaluations
11 and other employment related reports as a registered nurse upon request
12 of the Board. Respondent shall provide a copy of this Decision to her
13 employer and immediate supervisors prior to commencement of any
14 nursing or other health care related employment. In addition to the
15 above, Respondent shall notify the Board in writing within seventy-two (72)
16 hours after she obtains any nursing or other health care related employment.
17 Respondent shall notify the Board in writing within seventy-two (72) hours
18 after she is terminated or separated, regardless of cause, from any nursing,
19 or other health care related employment with a full explanation of the
20 circumstances surrounding the termination or separation.

21 12. Respondent's probation is subject to revocation because she failed to
22 comply with Probation Condition No. 7, referenced above, in that she failed to notify the Board
23 that she was terminated from EK Health Services, Inc. on March 31, 2005.

24 **FIFTH CAUSE TO REVOKE PROBATION**

25 **(Failed to Complete Nursing Course)**

26 13. At all times after the effective date of Respondent's probation, Probation
27 Condition No. 10 stated:

28 **Complete a Nursing Course(s).** Respondent, at her own expense, shall
enroll and successfully complete a course(s) relevant to the practice of
registered nursing no later than six months prior to the end of her
probationary term. Respondent shall obtain prior approval from the
Board before enrolling in the course(s). Respondent shall submit to the
Board the original transcripts or certificates of completion for the above
required course(s). The Board shall return the original documents to
Respondent after photocopying them for its records.

14. Respondent's probation is subject to revocation because she failed to
comply with Probation Condition No. 10, referenced above, in that she failed to complete her
required course work.

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1 during the entire period of probation. Respondent shall continue
2 with the recovery plan recommended by the treatment/rehabilitation
3 program or a licensed mental health examiner and/or other ongoing
4 recovery groups.

5 18. Respondent's probation is subject to revocation because she failed to
6 comply with Probation Condition No. 15, referenced above, in that she failed to ever submit
7 verification of attendance for 12 step recovery meetings and nurse support group meetings.

8 **EIGHTH CAUSE TO REVOKE PROBATION**

9 **(Failed to Submit to Tests and Samples)**

10 19. At all times after the effective date of Respondent's probation, Probation
11 Condition No. 17 stated:

12 **Submit to Tests and Samples.** Respondent, at her expense, shall
13 participate in a random, biological fluid testing or a drug screening
14 program which the Board approves. The length of time and frequency
15 will be subject to approval by the Board. Respondent is responsible
16 for keeping the Board informed of Respondent's current telephone
17 number at all times. Respondent shall also ensure that messages
18 may be left at the telephone number when she is not available and
19 ensure that reports are submitted directly by the testing agency to the
20 Board, as directed. Any confirmed positive finding shall be reported
21 immediately to the Board by the program and Respondent shall be
22 considered in violation of probation. In addition, Respondent, at
23 any time during the period of probation, shall fully cooperate with the
24 Board or any of its representatives, and shall, when requested, submit to
25 such tests and samples as the Board or its representatives may require for the
26 detection of alcohol, narcotics, hypnotics, dangerous drugs, or
27 other controlled substances. If Respondent has a positive drug screen
28 for any substance not legally authorized and not reported to the
coordinating physician, nurse practitioner, or physician assistant, and the
Board files a petition to revoke probation or an accusation, the Board
may suspend Respondent from practice pending the final decision on
the petition to revoke probation or the accusation. This period of
suspension will not apply to the reduction of this probationary time
period. If Respondent fails to participate in a random, biological fluid
testing or drug screening program within the specified time frame,
Respondent shall immediately cease practice and shall not resume
practice until notified by the Board. After taking into account
documented evidence of mitigation, if the Board files a petition to revoke
probation or an accusation, the Board may suspend Respondent from
practice pending the final decision on the petition to revoke probation or
the accusation. This period of suspension will not apply to the reduction
of this probationary time period.

20. Respondent's probation is subject to revocation because she failed to
comply with Probation Condition No. 17, referenced above, in that she failed to comply with the

1 random biological fluid testing/drug screening program as follows:

2 a. On or about January 3, 2005, Respondent failed to comply with the
3 required drug screening program in that she refused to provide an adequate urine sample.

4 b. Respondent failed to participate in the required drug screening program by
5 failing to appear for drug screening on or about February 15, 2005, May 9, 2005, June 1, 2005,
6 June 23, 2005, July 5, 2005, August 10, 2005, August 23, 2005, September 12, 2005, October 6,
7 2005, October 19, 2005, November 14, 2005, December 8, 2005, December 21, 2005, January
8 18, 2006, February 1, 2006, February 15, 2006, March 20, 2006, April 12, 2006, April 27, 2007,
9 May 17, 2006, June 8, 2006, June 26, 2006, July 24, 2006, August 7, 2006, August 17, 2006,
10 September 26, 2006, October 18, 2006, October 31, 2006, November 29, 2006, and December
11 12, 2006.

12 c. On or about January 1, 2007, the Board notified Respondent that the
13 procedures for drug screening were changing and that she was required to call Compass Vision
14 daily. As of January 1, 2007, Respondent has failed to call in for drug screening.

15 **NINTH CAUSE TO REVOKE PROBATION**

16 **(Failed to Undergo Mental Health Examination)**

17 21. At all times after the effective date of Respondent's probation, Probation
18 Condition No. 18 stated:

19 **Mental Health Examination.** Respondent shall, within 45 days of
20 the effective date of this Decision, have a mental health examination
21 including psychological testing as appropriate to determine her
22 capability to perform the duties of a registered nurse. The examination
23 will be performed by a psychiatrist, psychologist or other licensed
24 mental health practitioner approved by the Board. The examining
25 mental health practitioner will submit a written report of that assessment
26 and recommendation to the Board. All costs are the responsibility of
27 Respondent. Recommendations for treatment, therapy or counseling
28 made as a result of the mental health examination will be instituted
and followed by Respondent. If Respondent is determined to be unsafe
to practice safely as a registered nurse, the licensed mental health care
practitioner making this determination shall immediately notify the
Board and Respondent by telephone, and the Board shall request that
the Attorney General's Office prepare an accusation or petition to
revoke probation. Respondent shall immediately cease practice and
may not resume practice until notified by the Board. During this
period of suspension, Respondent shall not engage in any practice for
which a license issued by the Board is required, until the Board has

1 notified Respondent that a mental health determination permits Respondent
2 to resume practice. This period of suspension will not apply to the
3 reduction of this probationary time period.

4 22. Respondent's probation is subject to revocation because she failed to
5 comply with Probation Condition No. 18, referenced above, in that she failed to submit to the
6 Board a report from her mental health examination.

7 **TENTH CAUSE TO REVOKE PROBATION**

8 **(Failed to Complete Therapy)**

9 23. At all times after the effective date of Respondent's probation, Probation
10 Condition No. 19 stated:

11 **Therapy or Counseling Program.** Respondent, at her expense, shall
12 participate in an on-going counseling program until such time as the Board
13 releases her from this requirement and only upon the recommendation
14 of the counselor. Written progress reports from the counselor will
15 be required at various intervals.

16 24. Respondent's probation is subject to revocation because she failed to
17 comply with Probation Condition No. 19, referenced above. Respondent failed to submit any
18 written progress reports from her counselor.

19 **ELEVENTH CAUSE TO REVOKE PROBATION**

20 **(Failed to Fully Comply With Probation Program)**

21 25. At all times after the effective date of Respondent's probation, Probation
22 Condition No. 2 stated:

23 **Comply with the Board's Probation Program.** Respondent shall fully
24 comply with the conditions of the Probation Program established by the
25 Board and cooperate with representatives of the Board in its monitoring
26 and investigation of the Respondent's compliance with the Board's Probation
27 Program. Respondent shall inform the Board in writing within no more
28 than 15 days of any address change and shall at all times maintain an active,
current license status with the Board, including during any period of
suspension. Upon successful completion of probation, Respondent's
license shall be full restored.

26 26. Respondent's probation is subject to revocation because she failed to
27 comply with Probation Condition #2, referenced above, in that he failed to comply with
28 Conditions No. 1, No. 5, No. 6, No. 7, No. 10, No. 11, No. 15, No. 17, No. 18, and No. 19., as
set forth above.

PRAYER

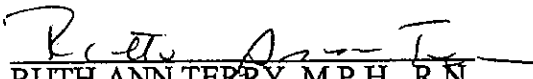
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Accusation No. 2004-98 and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 279441 issued to Lynn Gail Boyce, a.k.a. Lynn Gail Boyce Iverson;

2. Revoking the probation that was granted by the Board of Registered Nursing in Accusation No. 2004-98 and imposing the disciplinary order that was stayed thereby revoking Public Health Nurse Certification No. 33188 issued to Lynn Gail Boyce, a.k.a. Lynn Gail Boyce Iverson;

3. Taking such other and further action as deemed necessary and proper.

DATED: 11/9/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit A
Decisions and Order
Board of Registered Nursing Case No. 2004-98

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LYNN GAIL BOYCE
313 Black Oak Drive
Petaluma, CA 94952

Registered Nurse License No. 279441
Public Health Nurse Certification No. 33188

Respondent.

Case No. 2004-98

OAH No. N2003120078

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, as its Decision in this matter.

This Decision shall become effective on

8/20/2004

It is so ORDERED

8/13/2004

Sandra R. Erickson

FOR THE BOARD OF REGISTERED NURSING

1 **BILL LOCKYER**, Attorney General
 of the State of California
 2 **REBECCA HEINSTEIN**, State Bar No. 173202
 Deputy Attorney General
 3 California Department of Justice
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 Telephone: (415) 703-5604
 5 Facsimile: (415) 703-5480
 6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

9 In the Matter of the Accusation Against:

10 **LYNN GAIL BOYCE**
 11 313 Black Oak Drive
 12 Petaluma, CA 94952

13 Registered Nurse License No. 279441
 Public Health Nurse Certification No. 33188

14 Respondent.

Case No. 2004-98

OAH No. N2003120078

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER
REGARDING PUBLIC HEALTH
NURSE CERTIFICATION

16 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the
 17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") is the Executive Officer of
 20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
 21 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
 22 Rebecca Heinstein, Deputy Attorney General.

23 2. In or about 1977, the Board of Registered Nursing ("Board") issued
 24 Registered Nurse License Number 279441 to Lynn Gail Boyce ("Respondent"). The license was
 25 in full force and effect at all times relevant to the charges brought herein and will expire on
 26 November 30, 2004, unless renewed.

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1 3. On or about October 16, 1982, the Board issued Public Health Nurse
2 Certification Number 33188 to Lynn Gail Boyce ("Respondent"). The certification was in full
3 force and effect at all times relevant to the charges brought herein and will expire on November
4 30, 2004, unless renewed.

5 4. Respondent Lynn Gail Boyce (Respondent) is representing herself in this
6 proceeding and has chosen not to exercise her right to be represented by counsel.

7 JURISDICTION

8 5. Accusation No. 2004-98 was filed before the Board and is currently
9 pending against Respondent. The Accusation and all other statutorily required documents were
10 properly served on Respondent on November 13, 2003. Respondent timely filed her Notice of
11 Defense contesting the Accusation. A copy of Accusation No. 2004-98 is attached as exhibit A
12 and incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, and understands the charges and allegations
15 in Accusation No. 2004-98. Respondent has also carefully read, and understands the effects of
16 this Stipulated Settlement and Disciplinary Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
19 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
20 the right to present evidence and to testify on her own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

26 CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. 2004-98.

1 10. Respondent agrees that her Public Health Nurse Certification is subject to
2 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 RESERVATION

5 11. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 CONTINGENCY

10 12. The parties understand and agree that facsimile copies of this Stipulated
11 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
12 force and effect as the originals.

13 13. In consideration of the foregoing admissions and stipulations, the parties
14 agree that the Board may, without further notice or formal proceeding, issue and enter the
15 following Disciplinary Order:

16 DISCIPLINARY ORDER

17 IT IS HEREBY ORDERED that Public Health Nurse Certification issued to
18 Respondent Lynn Gail Boyce (Respondent) is revoked. However, the revocation is stayed and
19 Respondent is placed on probation for three (3) years on the following terms and conditions.

20 **Severability Clause.** Each condition of probation contained herein is a separate
21 and distinct condition. If any condition of this Order, or any application thereof, is declared
22 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
23 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
24 and enforceable to the fullest extent permitted by law.

25 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
26 A full and detailed account of any and all violations of law shall be reported by Respondent to
27 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
28 compliance with this condition, Respondent shall submit completed fingerprint forms and

1 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
2 as part of the licensure application process.

3 **Criminal Court Orders:** If Respondent is under criminal court orders, including
4 probation or parole, and the order is violated, this shall be deemed a violation of these probation
5 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

6 2. **Comply with the Board's Probation Program.** Respondent shall fully
7 comply with the conditions of the Probation Program established by the Board and cooperate
8 with representatives of the Board in its monitoring and investigation of the Respondent's
9 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
10 within no more than 15 days of any address change and shall at all times maintain an active,
11 current license status with the Board, including during any period of suspension.

12 Upon successful completion of probation, Respondent's license shall be fully
13 restored.

14 3. **Report in Person.** Respondent, during the period of probation, shall
15 appear in person at interviews/meetings as directed by the Board or its designated
16 representatives.

17 4. **Residency, Practice, or Licensure Outside of State.** Periods of
18 residency or practice as a registered nurse outside of California shall not apply toward a reduction
19 of this probation time period. Respondent's probation is tolled, if and when she resides outside
20 of California. Respondent must provide written notice to the Board within 15 days of any change
21 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
22 returning to practice in this state.

23 Respondent shall provide a list of all states and territories where she has ever been
24 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
25 provide information regarding the status of each license and any changes in such license status
26 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
27 new nursing license during the term of probation.

28 5. **Submit Written Reports.** Respondent, during the period of probation,

1 shall submit or cause to be submitted such written reports/declarations and verification of actions
2 under penalty of perjury, as required by the Board. These reports/declarations shall contain
3 statements relative to Respondent's compliance with all the conditions of the Board's Probation
4 Program. Respondent shall immediately execute all release of information forms as may be
5 required by the Board or its representatives.

6 Respondent shall provide a copy of this Decision to the nursing regulatory agency
7 in every state and territory in which she has a registered nurse license.

8 **6. Function as a Registered Nurse.** Respondent, during the period of
9 probation, shall engage in the practice of registered nursing in California for a minimum of 24
10 hours per week for 6 consecutive months or as determined by the Board.

11 For purposes of compliance with the section, "engage in the practice of registered
12 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
13 work in any non-direct patient care position that requires licensure as a registered nurse.

14 The Board may require that advanced practice nurses engage in advanced practice
15 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
16 Board.

17 If Respondent has not complied with this condition during the probationary term,
18 and Respondent has presented sufficient documentation of her good faith efforts to comply with
19 this condition, and if no other conditions have been violated, the Board, in its discretion, may
20 grant an extension of Respondent's probation period up to one year without further hearing in
21 order to comply with this condition. During the one year extension, all original conditions of
22 probation shall apply.

23 **7. Employment Approval and Reporting Requirements.** Respondent
24 shall obtain prior approval from the Board before commencing or continuing any employment,
25 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
26 performance evaluations and other employment related reports as a registered nurse upon request
27 of the Board.

28 Respondent shall provide a copy of this Decision to her employer and immediate

1 supervisors prior to commencement of any nursing or other health care related employment.

2 In addition to the above, Respondent shall notify the Board in writing within
3 seventy-two (72) hours after she obtains any nursing or other health care related employment.

4 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
5 terminated or separated, regardless of cause, from any nursing, or other health care related
6 employment with a full explanation of the circumstances surrounding the termination or
7 separation.

8 8. Supervision. Respondent shall obtain prior approval from the Board
9 regarding Respondent's level of supervision and/or collaboration before commencing or
10 continuing any employment as a registered nurse, or education and training that includes patient
11 care.

12 Respondent shall practice only under the direct supervision of a registered nurse
13 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
14 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
15 are approved.

16 Respondent's level of supervision and/or collaboration may include, but is not
17 limited to the following:

18 (a) Maximum - The individual providing supervision and/or collaboration is
19 present in the patient care area or in any other work setting at all times.

20 (b) Moderate - The individual providing supervision and/or collaboration is in
21 the patient care unit or in any other work setting at least half the hours Respondent works.

22 (c) Minimum - The individual providing supervision and/or collaboration has
23 person-to-person communication with Respondent at least twice during each shift worked.

24 (d) Home Health Care - If Respondent is approved to work in the home health
25 care setting, the individual providing supervision and/or collaboration shall have person-to-
26 person communication with Respondent as required by the Board each work day. Respondent
27 shall maintain telephone or other telecommunication contact with the individual providing
28 supervision and/or collaboration as required by the Board during each work day. The individual

1 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
2 site visits to patients' homes visited by Respondent with or without Respondent present.

3 **9. Employment Limitations.** Respondent shall not work for a nurse's
4 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
5 traveling nurse, or for an in-house nursing pool.

6 Respondent shall not work for a licensed home health agency as a visiting nurse
7 unless the registered nursing supervision and other protections for home visits have been
8 approved by the Board. Respondent shall not work in any other registered nursing occupation
9 where home visits are required.

10 Respondent shall not work in any health care setting as a supervisor of registered
11 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
12 nurses and/or unlicensed assistive personnel on a case-by-case basis.

13 Respondent shall not work as a faculty member in an approved school of nursing
14 or as an instructor in a Board approved continuing education program.

15 Respondent shall work only on a regularly assigned, identified and predetermined
16 worksite(s) and shall not work in a float capacity.

17 If Respondent is working or intends to work in excess of 40 hours per week, the
18 Board may request documentation to determine whether there should be restrictions on the hours
19 of work.

20 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall
21 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
22 than six months prior to the end of her probationary term.

23 Respondent shall obtain prior approval from the Board before enrolling in the
24 course(s). Respondent shall submit to the Board the original transcripts or certificates of
25 completion for the above required course(s). The Board shall return the original documents to
26 Respondent after photocopying them for its records.

27 **11. Violation of Probation.** If Respondent violates the conditions of her
28 probation, the Board after giving Respondent notice and an opportunity to be heard, may set

1 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
2 license.

3 If during the period of probation, an accusation or petition to revoke probation has
4 been filed against Respondent's license or the Attorney General's Office has been requested to
5 prepare an accusation or petition to revoke probation against Respondent's license, the
6 probationary period shall automatically be extended and shall not expire until the accusation or
7 petition has been acted upon by the Board.

8 12. License Surrender. During Respondent's term of probation, if she ceases
9 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
10 probation, Respondent may surrender her license to the Board. The Board reserves the right to
11 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
12 take any other action deemed appropriate and reasonable under the circumstances, without
13 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
14 will no longer be subject to the conditions of probation.

15 Surrender of Respondent's license shall be considered a disciplinary action and
16 shall become a part of Respondent's license history with the Board. A registered nurse whose
17 license has been surrendered may petition the Board for reinstatement no sooner than the
18 following minimum periods from the effective date of the disciplinary decision:

19 (1) Two years for reinstatement of a license that was surrendered for any
20 reason other than a mental or physical illness; or

21 (2) One year for a license surrendered for a mental or physical illness.
22 mental health examiner and/or other ongoing recovery groups.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Public Health Nurse Certification. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 8/1/04



LYNN GAIL BOYCE
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 8/9/04

BILL LOCKYER, Attorney General
of the State of California


REBECCA HEINSTEIN
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LYNN GAIL BOYCE
313 Black Oak Drive
Petaluma, CA 94952

Case No. 2004-98

OAH No. N2003120078

Registered Nurse License No. 279441

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, as its Decision in this matter.

This Decision shall become effective on August 20, 2004.

It is so ORDERED July 21, 2004.

Sandra K. Erickson

FOR THE BOARD OF REGISTERED NURSING

1 BILL LOCKYER, Attorney General
of the State of California
2 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 LYNN GAIL BOYCE
313 Black Oak Drive
Petaluma, CA 94952

Case No. 2004-98

OAH No. N2003120078

13 **STIPULATED SETTLEMENT AND**
14 **DISCIPLINARY ORDER**

15 Registered Nurse License No. 279441

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
23 Rebecca Heinstein, Deputy Attorney General.

24 2. Respondent Lynn Gail Boyce (Respondent) is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. In or about 1977, the Board of Registered Nursing issued Registered Nurse
27 License No. 279441 to Lynn Gail Boyce (Respondent). The license was in full force and effect at
28 all times relevant to the charges brought in Accusation No. 2004-98 and will expire on

1 November 30, 2004, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2004-98 was filed before the Board of Registered Nursing
4 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
5 Accusation and all other statutorily required documents were properly served on Respondent on
6 November 13, 2003. Respondent timely filed her Notice of Defense contesting the Accusation.
7 A copy of Accusation No. 2004-98 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, and understands the charges and allegations
10 in Accusation No. 2004-98. Respondent has also carefully read, and understands the effects of
11 this Stipulated Settlement and Disciplinary Order.

12 6. Respondent is fully aware of her legal rights in this matter, including the
13 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
14 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
15 the right to present evidence and to testify on her own behalf; the right to the issuance of
16 subpoenas to compel the attendance of witnesses and the production of documents; the right to
17 reconsideration and court review of an adverse decision; and all other rights accorded by the
18 California Administrative Procedure Act and other applicable laws.

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
20 each and every right set forth above.

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in
23 Accusation No. 2004-98.

24 9. Respondent agrees that her Registered Nurse License is subject to
25 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
26 Disciplinary Order below.

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1 probation or parole, and the order is violated, this shall be deemed a violation of these probation
2 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

3 **2. Comply with the Board's Probation Program.** Respondent shall fully
4 comply with the conditions of the Probation Program established by the Board and cooperate
5 with representatives of the Board in its monitoring and investigation of the Respondent's
6 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
7 within no more than 15 days of any address change and shall at all times maintain an active,
8 current license status with the Board, including during any period of suspension.

9 Upon successful completion of probation, Respondent's license shall be fully
10 restored.

11 **3. Report in Person.** Respondent, during the period of probation, shall
12 appear in person at interviews/meetings as directed by the Board or its designated
13 representatives.

14 **4. Residency, Practice, or Licensure Outside of State.** Periods of
15 residency or practice as a registered nurse outside of California shall not apply toward a reduction
16 of this probation time period. Respondent's probation is tolled, if and when she resides outside
17 of California. Respondent must provide written notice to the Board within 15 days of any change
18 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
19 returning to practice in this state.

20 Respondent shall provide a list of all states and territories where she has ever been
21 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
22 provide information regarding the status of each license and any changes in such license status
23 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
24 new nursing license during the term of probation.

25 **5. Submit Written Reports.** Respondent, during the period of probation,
26 shall submit or cause to be submitted such written reports/declarations and verification of actions
27 under penalty of perjury, as required by the Board. These reports/declarations shall contain
28 statements relative to Respondent's compliance with all the conditions of the Board's Probation

1 Program. Respondent shall immediately execute all release of information forms as may be
2 required by the Board or its representatives.

3 Respondent shall provide a copy of this Decision to the nursing regulatory agency
4 in every state and territory in which she has a registered nurse license.

5 6. **Function as a Registered Nurse.** Respondent, during the period of
6 probation, shall engage in the practice of registered nursing in California for a minimum of 24
7 hours per week for 6 consecutive months or as determined by the Board.

8 For purposes of compliance with the section, "engage in the practice of registered
9 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
10 work in any non-direct patient care position that requires licensure as a registered nurse.

11 The Board may require that advanced practice nurses engage in advanced practice
12 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
13 Board.

14 If Respondent has not complied with this condition during the probationary term,
15 and Respondent has presented sufficient documentation of her good faith efforts to comply with
16 this condition, and if no other conditions have been violated, the Board, in its discretion, may
17 grant an extension of Respondent's probation period up to one year without further hearing in
18 order to comply with this condition. During the one year extension, all original conditions of
19 probation shall apply.

20 7. **Employment Approval and Reporting Requirements.** Respondent
21 shall obtain prior approval from the Board before commencing or continuing any employment,
22 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
23 performance evaluations and other employment related reports as a registered nurse upon request
24 of the Board.

25 Respondent shall provide a copy of this Decision to her employer and immediate
26 supervisors prior to commencement of any nursing or other health care related employment.

27 In addition to the above, Respondent shall notify the Board in writing within
28 seventy-two (72) hours after she obtains any nursing or other health care related employment.

1 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
2 terminated or separated, regardless of cause, from any nursing, or other health care related
3 employment with a full explanation of the circumstances surrounding the termination or
4 separation.

5 8. **Supervision.** Respondent shall obtain prior approval from the Board
6 regarding Respondent's level of supervision and/or collaboration before commencing or
7 continuing any employment as a registered nurse, or education and training that includes patient
8 care.

9 Respondent shall practice only under the direct supervision of a registered nurse
10 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
11 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
12 are approved.

13 Respondent's level of supervision and/or collaboration may include, but is not
14 limited to the following:

15 (a) Maximum - The individual providing supervision and/or collaboration is
16 present in the patient care area or in any other work setting at all times.

17 (b) Moderate - The individual providing supervision and/or collaboration is in
18 the patient care unit or in any other work setting at least half the hours Respondent works.

19 (c) Minimum - The individual providing supervision and/or collaboration has
20 person-to-person communication with Respondent at least twice during each shift worked.

21 (d) Home Health Care - If Respondent is approved to work in the home health
22 care setting, the individual providing supervision and/or collaboration shall have person-to-
23 person communication with Respondent as required by the Board each work day. Respondent
24 shall maintain telephone or other telecommunication contact with the individual providing
25 supervision and/or collaboration as required by the Board during each work day. The individual
26 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
27 site visits to patients' homes visited by Respondent with or without Respondent present.

28 9. **Employment Limitations.** Respondent shall not work for a nurse's

1 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
2 traveling nurse, or for an in-house nursing pool.

3 Respondent shall not work for a licensed home health agency as a visiting nurse
4 unless the registered nursing supervision and other protections for home visits have been
5 approved by the Board. Respondent shall not work in any other registered nursing occupation
6 where home visits are required.

7 Respondent shall not work in any health care setting as a supervisor of registered
8 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
9 nurses and/or unlicensed assistive personnel on a case-by-case basis.

10 Respondent shall not work as a faculty member in an approved school of nursing
11 or as an instructor in a Board approved continuing education program.

12 Respondent shall work only on a regularly assigned, identified and predetermined
13 worksite(s) and shall not work in a float capacity.

14 If Respondent is working or intends to work in excess of 40 hours per week, the
15 Board may request documentation to determine whether there should be restrictions on the hours
16 of work.

17 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
18 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
19 than six months prior to the end of her probationary term.

20 Respondent shall obtain prior approval from the Board before enrolling in the
21 course(s). Respondent shall submit to the Board the original transcripts or certificates of
22 completion for the above required course(s). The Board shall return the original documents to
23 Respondent after photocopying them for its records.

24 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
25 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
26 amount of \$4800.00. Respondent shall be permitted to pay these costs in a payment plan
27 approved by the Board, with payments to be completed no later than three months prior to the
28 end of the probation term.

1 If Respondent has not complied with this condition during the probationary term,
2 and Respondent has presented sufficient documentation of her good faith efforts to comply with
3 this condition, and if no other conditions have been violated, the Board, in its discretion, may
4 grant an extension of Respondent's probation period up to one year without further hearing in
5 order to comply with this condition. During the one year extension, all original conditions of
6 probation will apply.

7 **12. Violation of Probation.** If Respondent violates the conditions of her
8 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
9 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
10 license.

11 If during the period of probation, an accusation or petition to revoke probation has
12 been filed against Respondent's license or the Attorney General's Office has been requested to
13 prepare an accusation or petition to revoke probation against Respondent's license, the
14 probationary period shall automatically be extended and shall not expire until the accusation or
15 petition has been acted upon by the Board.

16 **13. License Surrender.** During Respondent's term of probation, if she ceases
17 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
18 probation, Respondent may surrender her license to the Board. The Board reserves the right to
19 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
20 take any other action deemed appropriate and reasonable under the circumstances, without
21 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
22 will no longer be subject to the conditions of probation.

23 Surrender of Respondent's license shall be considered a disciplinary action and
24 shall become a part of Respondent's license history with the Board. A registered nurse whose
25 license has been surrendered may petition the Board for reinstatement no sooner than the
26 following minimum periods from the effective date of the disciplinary decision:

27 (1) Two years for reinstatement of a license that was surrendered for any
28 reason other than a mental or physical illness; or

1 (2) One year for a license surrendered for a mental or physical illness.

2 14. **Physical Examination.** Within 45 days of the effective date of this
3 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
4 physician assistant, who is approved by the Board before the assessment is performed, submit an
5 assessment of the Respondent's physical condition and capability to perform the duties of a
6 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
7 medically determined, a recommended treatment program will be instituted and followed by the
8 Respondent with the physician, nurse practitioner, or physician assistant providing written
9 reports to the Board on forms provided by the Board.

10 If Respondent is determined to be unable to practice safely as a registered nurse,
11 the licensed physician, nurse practitioner, or physician assistant making this determination shall
12 immediately notify the Board and Respondent by telephone, and the Board shall request that the
13 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
14 shall immediately cease practice and shall not resume practice until notified by the Board.
15 During this period of suspension, Respondent shall not engage in any practice for which a license
16 issued by the Board is required until the Board has notified Respondent that a medical
17 determination permits Respondent to resume practice. This period of suspension will not apply
18 to the reduction of this probationary time period.

19 If Respondent fails to have the above assessment submitted to the Board within
20 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
21 practice until notified by the Board. This period of suspension will not apply to the reduction of
22 this probationary time period. The Board may waive or postpone this suspension only if
23 significant, documented evidence of mitigation is provided. Such evidence must establish good
24 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
25 provided. Only one such waiver or extension may be permitted.

26 15. **Participate in Treatment/Rehabilitation Program for Chemical**
27 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
28 period or shall have successfully completed prior to commencement of probation a Board-

1 approved treatment/rehabilitation program of at least six months duration. As required, reports
2 shall be submitted by the program on forms provided by the Board. If Respondent has not
3 completed a Board-approved treatment/rehabilitation program prior to commencement of
4 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
5 a program. If a program is not successfully completed within the first nine months of probation,
6 the Board shall consider Respondent in violation of probation.

7 Based on Board recommendation, each week Respondent shall be required to
8 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
9 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
10 by the Board. If a nurse support group is not available, an additional 12-step meeting or
11 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
12 such attendance to the Board during the entire period of probation. Respondent shall continue
13 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
14 mental health examiner and/or other ongoing recovery groups.

15 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
16 shall completely abstain from the possession, injection or consumption by any route of all
17 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
18 health care professional legally authorized to do so as part of documented medical treatment.
19 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
20 prescribing health professional, a report identifying the medication, dosage, the date the
21 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
22 be required, and the effect on the recovery plan, if appropriate.

23 Respondent shall identify for the Board a single physician, nurse practitioner or
24 physician assistant who shall be aware of Respondent's history of substance abuse and will
25 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
26 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
27 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
28 condition. If any substances considered addictive have been prescribed, the report shall identify a

1 program for the time limited use of any such substances.

2 The Board may require the single coordinating physician, nurse practitioner, or
3 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
4 addictive medicine.

5 **17. Submit to Tests and Samples.** Respondent, at her expense, shall
6 participate in a random, biological fluid testing or a drug screening program which the Board
7 approves. The length of time and frequency will be subject to approval by the Board.
8 Respondent is responsible for keeping the Board informed of Respondent's current telephone
9 number at all times. Respondent shall also ensure that messages may be left at the telephone
10 number when she is not available and ensure that reports are submitted directly by the testing
11 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
12 to the Board by the program and Respondent shall be considered in violation of probation.

13 In addition, Respondent, at any time during the period of probation, shall fully
14 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
15 tests and samples as the Board or its representatives may require for the detection of alcohol,
16 narcotics, hypnotics, dangerous drugs, or other controlled substances.

17 If Respondent has a positive drug screen for any substance not legally authorized
18 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
19 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
20 from practice pending the final decision on the petition to revoke probation or the accusation.
21 This period of suspension will not apply to the reduction of this probationary time period.

22 If Respondent fails to participate in a random, biological fluid testing or drug
23 screening program within the specified time frame, Respondent shall immediately cease practice
24 and shall not resume practice until notified by the Board. After taking into account documented
25 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
26 Board may suspend Respondent from practice pending the final decision on the petition to
27 revoke probation or the accusation. This period of suspension will not apply to the reduction of
28 this probationary time period.

1 18. **Mental Health Examination.** Respondent shall, within 45 days of the
2 effective date of this Decision, have a mental health examination including psychological testing
3 as appropriate to determine her capability to perform the duties of a registered nurse. The
4 examination will be performed by a psychiatrist, psychologist or other licensed mental health
5 practitioner approved by the Board. The examining mental health practitioner will submit a
6 written report of that assessment and recommendations to the Board. All costs are the
7 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
8 result of the mental health examination will be instituted and followed by Respondent.

9 If Respondent is determined to be unable to practice safely as a registered nurse,
10 the licensed mental health care practitioner making this determination shall immediately notify
11 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
12 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
13 practice and may not resume practice until notified by the Board. During this period of
14 suspension, Respondent shall not engage in any practice for which a license issued by the Board
15 is required, until the Board has notified Respondent that a mental health determination permits
16 Respondent to resume practice. This period of suspension will not apply to the reduction of this
17 probationary time period.

18 If Respondent fails to have the above assessment submitted to the Board within
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
20 practice until notified by the Board. This period of suspension will not apply to the reduction of
21 this probationary time period. The Board may waive or postpone this suspension only if
22 significant, documented evidence of mitigation is provided. Such evidence must establish good
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
24 provided. Only one such waiver or extension may be permitted.

25 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
26 participate in an on-going counseling program until such time as the Board releases her from this
27 requirement and only upon the recommendation of the counselor. Written progress reports from
28 the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 2/18/04



LYNN GAIL BOYCE
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 2/20/04

BILL LOCKYER, Attorney General
of the State of California


REBECCA HEINSTEIN
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 2004-98

1 BILL LOCKYER, Attorney General
of the State of California
2 REBECCA M. HEINSTEIN, State Bar No. 173202
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2004-98

12 **LYNN GAIL BOYCE,**
a.k.a. **LYNN BOYCE IVERSON**
13 313 Black Oak Drive
Petaluma, CA 94952

A C C U S A T I O N

14 Registered Nurse License No. 279441
15 Public Health Nurse Certification No. 33188

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. In or about 1977, the Board of Registered Nursing ("Board") issued
23 Registered Nurse License Number 279441 to Lynn Gail Boyce ("Respondent"). The license was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2004, unless renewed.

26 3. On or about October 16, 1982, the Board issued Public Health Nurse
27 Certification Number 33188 to Lynn Gail Boyce ("Respondent"). The certification was in full
28 force and effect at all times relevant to the charges brought herein and will expire on November

1 30, 2004, unless renewed.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code ("Code") provides that
4 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
5 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
6 Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
8 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
9 against the licensee or to render a decision imposing discipline on the license. Under section
10 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
11 the expiration.

12 6. Section 2761 of the Code states, in pertinent part, that the board may take
13 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
14 license for any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the following:

16 (1) Incompetence, or gross negligence in carrying out usual certified or licensed
17 nursing functions.

18

19 (f) Conviction of a felony or of any offense substantially related to the
20 qualifications, functions, and duties of a registered nurse, in which event the record of the
21 conviction shall be conclusive evidence thereof.

22

23 7. Section 490 of the Code states that a Board may suspend or revoke a
24 license on the ground that the licensee has been convicted of a crime, if the crime is substantially
25 related to the qualifications, functions, or duties of the business or profession for which the
26 license was issued. A conviction within the meaning of this section means a plea or verdict of
27 guilty or a conviction following a plea of nolo contendere. Any action which a board is
28 permitted to take following the establishment of a conviction may be taken when the time for

1 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
2 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
3 order under the provisions of Section 1203.4 of the Penal Code.

4 8. Section 2762 of the Code states, in pertinent part, that in addition to other
5 acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice
6 Act], it is unprofessional conduct for a person licensed under this chapter to do any of the
7 following:

8 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
9 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
10 or administer to another, any controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
12 defined in Section 4022.

13 (b) Use any controlled substance as defined in Division 10 (commencing with
14 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
15 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
16 injurious to himself or herself, any other person, or the public or to the extent that such use
17 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
18 license.

19 (c) Be convicted of a criminal offense involving the prescription, consumption, or
20 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
21 or the possession of, or falsification of a record pertaining to, the substances described in
22 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
23 thereof.

24

25 9. Health and Safety Code section 11350(a) provides that except as otherwise
26 provided in this division, every person who possesses (1) any controlled substance specified in
27 subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in
28 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b),

1 (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V
2 which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
3 veterinarian licensed to practice in this state, shall be punished by imprisonment in the state
4 prison.

5 10. Health and Safety Code section 11173(a) provides that no person
6 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the
7 administration of or prescription for controlled substances, (1) by fraud, deceit,
8 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

9 11. Title 16, California Code of Regulations, section 1442, states that as used
10 in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard
11 of care which, under similar circumstances, would have ordinarily been exercised by a competent
12 registered nurse. Such an extreme departure means the repeated failure to provide nursing care as
13 required or failure to provide care or to exercise ordinary precaution in a single situation which
14 the nurse knew, or should have known, could have jeopardized the client's health or life.

15 12. Title 16, California Code of Regulations, section 1444 provides that a
16 crime or act shall be considered to be substantially related to the qualifications, functions or
17 duties of a registered nurse if to a substantial degree it evidences a present or potential unfitness
18 of a registered nurse to perform the functions authorized by his/her license in a manner consistent
19 with the public health, safety, or welfare.

20 13. Section 125.3 of the Code provides that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations
22 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 DRUGS

25 14. "Dilaudid" is a brand of hydromorphone, a Schedule II controlled
26 substance as designated by Health and Safety Code section 11055(b)(1)(K).

27 15. "Fentanyl" is a Schedule II controlled substance as designated by Health
28 and Safety Code section 11055(c)(8).

1 16. "Hydrocodone" is a Schedule II controlled substance as designated by
2 Health and Safety Code section 11055(b)(1)(J).

3 17. "Morphine" is a Schedule II controlled substance as designated by Health
4 and Safety Code section 11055(b)(1)(M).

5 FIRST CAUSE FOR DISCIPLINE

6 (Conviction - Substantially Related Crime)

7 18. Respondent is subject to disciplinary action under sections 490 and
8 2761(f) of the Code in that she was convicted of criminal offenses which are substantially related
9 to the qualifications, functions or duties of a registered nurse, as defined in Title 16, California
10 Code of Regulations, section 1444, as follows:

11 a. On or about March 25, 1997, in a criminal proceeding entitled People of
12 the State of California vs. Lynn Gail Boyce, Municipal Court of the Northern Solano Judicial
13 District, County of Solano, State of California, Case Number F152959F, Respondent was
14 convicted by a plea of nolo contendere of violating Penal Code section 487(a) (grand theft of
15 personal property), a misdemeanor, and Health and Safety Code section 11173(a) (obtaining
16 controlled substances by fraud), a misdemeanor.

17 b. The underlying circumstances are that between the approximate period of
18 May 1, 1995 and February 19, 1996, Respondent unlawfully obtained Fentanyl and Dialudid
19 from David Grant Medical Center, Travis Air Force Base, Fairfield, California by procuring the
20 administration of and prescription for said controlled substances by fraud, deceit or
21 misrepresentation. Respondent was sentenced to three (3) years probation, thirty (30) days in
22 county jail, and was ordered to pay \$5,046.64 in restitution.

23 SECOND CAUSE FOR DISCIPLINE

24 (Conviction Involving Use of Controlled Substance)

25 19. Respondent is subject to disciplinary action under section 2761(a) of the
26 Code on the grounds of unprofessional conduct, as defined by section 2762(c) of the Code in that
27 on or about March 25, 1997, Respondent was convicted of criminal offenses involving the
28 prescription, consumption, or self-administration of controlled substances, as set forth in

1 paragraph 18, above.

2 THIRD CAUSE FOR DISCIPLINE

3 (Obtaining, Possessing and Self-Administering a Controlled Substance)

4 20. Respondent is subject to disciplinary action under section 2761(a) of the
5 Code on the grounds of unprofessional conduct, as defined by section 2762(a) of the Code, in
6 that between the approximate period of May 1, 1995 and February 19, 1996, while on duty as a
7 registered nurse at David Grant Medical Center, Travis Air Force Base, Fairfield, California,

8 Respondent did the following:

9 a. Respondent obtained an unknown quantity of Morphine, Hydrocodone,
10 Fentanyl and Dialudid by fraud, deceit, misrepresentation, subterfuge, or by concealment of a
11 material fact in violation of Health and Safety Code section 11173(a).

12 b. Respondent possessed an unknown quantity of Morphine, Hydrocodone,
13 Fentanyl and Dialudid in violation of Health and Safety Code section 11350(a).

14 c. Respondent self-administered an unknown quantity of Fentanyl and
15 Dialudid, without direction from a licensed physician and surgeon, dentist, or podiatrist.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Use of Controlled Substance to a Dangerous Extent)

18 21. Respondent is subject to disciplinary action under section 2761(a) of the
19 Code on the grounds of unprofessional conduct, as defined by section 2762(b) of the Code in that
20 between the approximate period of May 1, 1995 and February 19, 1996, while on duty as a
21 registered nurse at David Grant Medical Center, Travis Air Force Base, Fairfield, California,
22 Respondent used Fentanyl and Dialudid to an extent or in a manner dangerous or injurious to
23 herself or others or to the extent that such use impaired her ability to conduct with safety to the
24 public the practice of nursing.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing the Board issue a decision:

28 1. Revoking or suspending Registered Nurse License Number 279441 issued

1 to Lynn Gail Boyce, a.k.a. Lynn Boyce Iverson;

2 2. Revoking or suspending Public Health Nurse Certification Number 33188
3 issued to Lynn Gail Boyce, a.k.a. Lynn Boyce Iverson;

4 3. Ordering Lynn Gail Boyce, a.k.a. Lynn Boyce Iverson, to pay the
5 reasonable costs incurred by the Board in the investigation and enforcement of this case pursuant
6 to section 125.3 of the Code;

7 4. Taking such other and further action as deemed necessary and proper.

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9 DATED: 11/3/03

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant